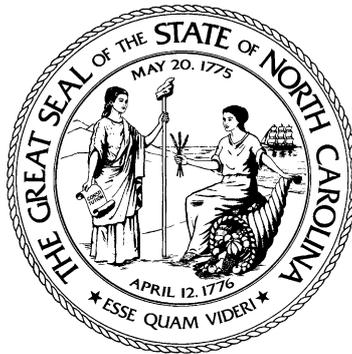


**JOINT SELECT COMMITTEE ON
SMALL BUSINESS ECONOMIC DEVELOPMENT**



**REPORT TO THE GENERAL ASSEMBLY
2004 SESSION OF THE
2003 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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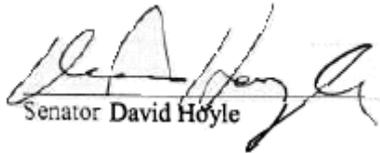
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April 26, 2004

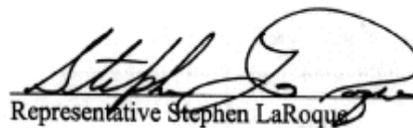
TO THE MEMBERS OF THE GENERAL ASSEMBLY:

Attached for your consideration is the report of the **Joint Select Committee on Small Business Economic Development**, established by the President Pro Tempore of the Senate and the Speakers of the House of Representatives effective November 12, 2003, as an interim committee pursuant to G.S. 120-19.6, Rule 1 of the Rules of the Senate of the 2003 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2003 General Assembly.

Respectfully submitted,



Senator David Hoyle



Representative Stephen LaRoque



Representative Walter Church

Cochairs

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North Carolina General Assembly

Marc Basnight
President Pro Tem

James B. Black
Speaker

Richard T. Morgan
Speaker

JOINT SELECT COMMITTEE ON SMALL BUSINESS ECONOMIC DEVELOPMENT

Section 1. The **Joint Select Committee on Small Business Economic Development** is established by the President Pro Tempore of the Senate and the Speakers of the House of Representatives pursuant to G.S. 120-19.6, Rule 31 of the Rules of the Senate of the 2003 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2003 General Assembly.

Section 2. The Committee consists of the twenty members listed below, ten of whom are appointed by the President Pro Tempore of the Senate and ten of whom are appointed by the Speakers of the House of Representatives. Members serve at the pleasure of the appointing officer.

Sen. David Hoyle, Co-Chair
Sen. John Garwood
Sen. Kay Hagan
Sen. Cecil Hargett
Sen. Jeanne Lucas
Sen. Vernon Malone
Sen. Steve Metcalf
Sen. Fred Smith
Sen. A.B. Swindell
Sen. Scott Thomas

Rep. Walter Church, Sr., Co-chair
Rep. Stephen LaRoque, Co-Chair
Rep. Cary Allred
Rep. Alice Bordsen
Rep. William Daughtridge
Rep. Michael Decker
Rep. Earl Jones
Rep. Mitchell Setzer
Rep. Alex Warner
Rep. Constance Wilson

Section 3. The Committee shall study the responsiveness of the State to North Carolina small businesses and make recommendations on small business economic development initiatives. In undertaking this study, the Committee shall consider the following:

- (1) Agencies and programs that provide developmental and expansion assistance to new and existing small businesses to determine the

effectiveness of existing services and the need for alternative or additional services.

The impact of State tax laws on small businesses, including recommendations for reform of the tax code to better promote small businesses.

- (3) Fiscal and tax policies affecting small businesses in other states.
- (4) The need for a centralized agency to provide assistance to small businesses in obtaining any necessary licenses or permits.

The need for a comprehensive communications strategy for small businesses that may include any of the following:

- a. Intra-agency and interagency communication and coordination of small business assistance for the increased benefit of North Carolina's small businesses.
- b. Needs or provider assistance surveys of North Carolina businesses every two years.
- c. Existing websites or the creation of a website that is designed specifically for start-up businesses and small business owners and managers and that includes information on government financial assistance programs, permits, licenses, taxes and tax incentives, and links to sources of local information.
- d. The exchange of public information between the Department of Commerce and its partners and allies.

The need for a Small Business Micro-Loan Program targeted at developing, incubating, and expanding small businesses.

Other matters relating to small business concerns.

Section 4. The Committee may report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives on or before the convening of the 2004 Regular Session of the 2003 General Assembly by filing a copy of the report with the President Pro Tempore's office, the Speakers' offices, and the Legislative Library. The Committee shall report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives on or before the convening of the 2005 General Assembly by filing a copy of the report with the President Pro Tempore's office, the Speakers' offices, and the Legislative Library. The Committee terminates upon the convening of the 2005 General Assembly, or upon the filing of its final report, whichever occurs first.

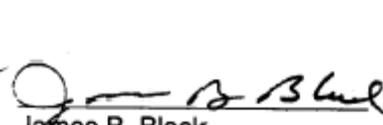
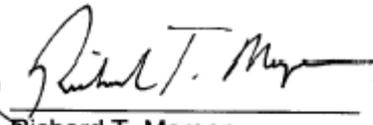
Section 5. The Committee shall meet during the interim period between regular sessions upon the call of the House and Senate co-chairs.

Section 6. The Committee is vested with the authority contained in Article 5A of Chapter 120 of the General Statutes.

Section 7. Members of the Committee shall receive per diem, subsistence, and travel allowance at the rate established in G.S. 120-3.1.

Section 8. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of \$5,000 or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a co-chair of the Committee. Individual expenses in excess of \$5,000 shall be paid upon the written approval of the President Pro Tempore of the Senate and the Speakers of the House of Representatives. All expenses of the Committee shall be paid from the Legislative Services Commission's Reserve for Studies.

Effective this 12th day of November, 2003.

		
Marc Basnight President Pro Tempore	James B. Black Speaker	Richard T. Morgan Speaker

**JOINT SELECT COMMITTEE ON
SMALL BUSINESS ECONOMIC DEVELOPMENT
2003-2004 INTERIM
MEMBERSHIP LIST**

SENATE

Senator David Hoyle, Co-chair
Room 300A, LOB 733-5734
LA: Penny Williams

Senator Tom Apodaca
Room 1119, LB 733-5745
LA: Nancy Pulley

Senator John Garwood
Room 1118, LB 733-5742
LA: Phyllis Porter

Senator Kay Hagan
Room 411, LOB 733-5856
LA: Susan Hamilton

Senator Cecil Hargett
Room 620, LOB 715-3034
LA: Surena Henderson

Senator Vernon Malone
Room 2113, LB 733-5880
LA: Claudette Howell

Senator Fred Smith
Room 520, LOB 733-5748
LA: Allen Bean

Senator A.B. Swindell
Room 629, LOB 715-3030
LA: Mo Hudson

Senator Scott Thomas
Room 300E, LOB 733-6275
LA: Susanne Gunter

HOUSE

Representative Walter Church, Sr., Co-chair
Room 1311, LB 733-5805
LA: Joyce Fuller

Representative Stephen LaRoque, Co-chair
Room 417B, LOB 715-3017
LA: Patricia Frieje

Representative Cary Allred
Room 606, LOB 733-5905
LA: Jean Allred

Representative Alice Bordsen
Room 533, LOB 733-5820
LA: Erin Wynia

Representative William Daughtridge
Room 604, LOB 733-5802
LA: Monica Saunders

Representative Michael Decker
Room 2301, LB 715-0850
LA: Linda Hines

Representative Earl Jones
Room 536, LOB 733-5825
LA: Mia Bailey

Representative Mitchell Setzer
Room 1204, LB 733-4948
LA: Joanna Mills

Representative Alex Warner
Room 1206, LB 733-5853
LA: Ann Stancil

Representative Constance Wilson
Room 503, LOB 733-5849
LA: Chris Floyd

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COMMITTEE ASSISTANT

Anne Wilson
Room 300B, LOB 733-5649

COMMITTEE PROCEEDINGS

North Carolina understands the importance of small businesses to the state's economic development initiatives. The Joint Select Committee on Small Business Economic Development (2003) was charged with studying the state's responsiveness to small business needs and making recommendations to strengthen the state's support of small business initiatives.

The Committee held seven meetings prior to the start of the 2004 Regular Session of the 2003 General Assembly. The agenda topics, speakers, and summaries for each meeting are detailed below.

January 15, 2004

□ **OVERVIEW OF EXISTING SMALL BUSINESS SERVICES IN NORTH CAROLINA**

Jim Fain, Secretary, North Carolina Department of Commerce

Gayle Harvey, State Director, Small Business Centers Program (NCCCS)

Scott Daughtry, Executive Director, Small Business and Technology Development Center (UNC System)

Summary:

The Department of Commerce presented their efforts to assist small business, including their services and programs, recommendations on tax changes, the need for a centralized agency for assistance with permits and licenses, and the need for a comprehensive communications strategy for small business assistance and special websites for small businesses.

The Small Business Centers Program for the North Carolina Community Colleges System presented the services offered by the program, including business counseling, education and training services, and a resource center. Small Business Centers help aspiring entrepreneurs develop and refine business plans, identify products or services that are in demand by others, find financing, develop marketing skills, and steer through the bureaucratic maze of licenses, taxes, and environmental and worker safety regulation.

The Small Business and Technology Development Center (SBTDC) of the University of North Carolina presented their service offerings. SBTDC supports the growth and development of North Carolina's economy by encouraging entrepreneurship, assisting in the creation and expansion of small to medium-sized enterprises, and facilitating technology development and commercialization.

Members closed the meeting by providing input into future discussion topics and issues for the committee proceedings.

January 28, 2004

□ **ACCESS TO CAPITAL FOR SMALL BUSINESSES**

Lee Cornelison, District Director, US Small Business Administration

Paul Stock, NC Banker's Association

Eddie Miller, United States Department of Agriculture - Rural Development

Jerry M. Vaughan, Principal, Strategic Value Partners

Billy Ray Hall, President, NC Rural Economic Development Center

Summary:

The United States Small Business Administration (SBA) informed the committee about the mission and activities of SBA and made two suggestions that may help small businesses in North Carolina: 1) addressing the biggest problem small business owners have, which is finding, hiring and keeping good people, and 2) supporting an initiative to teach and practice financial literacy.

The North Carolina Bankers' Association presented information about the banking industry's part in financing small businesses. Banks have been investors in Small Business Investment Companies (SBICs) across the country. Smaller banks do not have a high comfort level with getting involved in federal programs or getting involved with venture capital investments. The SBA has done a lot in the past few years to assist these issues. The Bankers' Association believes with the improving economy there will be some loosening of business lending standards.

The USDA - Rural Development provided a North Carolina Program Guide entitled "Improving Lives, Strengthening Communities". This guide details the federal lending and grant options available to small business owners.

Strategic Value Partners, Incorporated, gave ideas on new strategies for providing access to capital. The vision of Strategic Value Partners is to create the same efficiency for capital markets in small business as for home ownership through a SBE Fund. They suggested that the North Carolina banking structure be used to place the loans and a secondary market, or a loan repurchase fund, be created, using a similar structure in which banks make the loans, generate fee income, build relationships, place loans in 15 days without having to go through an SBA or USDA guarantee, and lay off the credit risk to a new entity. A task force could be established with the purpose of creating and implementing an innovative NC Small Business Loan Purchase Fund.

The Rural Center described the activities of the Institute for Rural Entrepreneurship, including research on entrepreneurial small business needs as well as recommendations for future action.

March 2, 2004

❑ **TAXPAYER ASSISTANCE FOR SMALL BUSINESSES**

Alan Felton, Assistant Secretary for Tax Compliance, Department of Revenue
Jimmy Cooke, Assistant Secretary for Tax Administration, Department of Revenue

❑ **CORPORATE TAX STRUCTURE AND SMALL BUSINESS**

David Crotts, Fiscal Research Division

❑ **TIMING ISSUES IN STATE TAX LAW**

Linda Millsaps, Fiscal Research Division

Summary:

The North Carolina Department of Revenue presented information on the state's tax collection processes and services. The DOR Tax Compliance Division is charged with civil enforcement of tax laws and assisting taxpayers in a friendly and helpful manner that promotes voluntary compliance with revenue laws. The Division has provides services such as full-service taxpayer assistance service centers, small business workshops, publishing pamphlets on tax issues that are relevant to small businesses, operating DOR's Taxpayer Assistance and Collection Center, and implementing a predictive dialer system at TACC earlier this year to provide better customer service for small businesses.

The DOR Examinations Division aids small business owners and is primarily charged with conducting audits of individuals and businesses. The Division has a managed audit program that permits businesses to become actively engaged in reviews of their own books and records with the assistance of a field auditor. Many field audits reveal business owner errors that can be corrected with an amended return, resulting in a valuable learning experience for the owner, in addition to a tax refund or a payment on another current or future tax liability.

The Taxpayer Assistance Division has other plans to help small businesses, including the creation of a tax practitioner hot line, enhanced WEB services, targeted e-mail communications with small business owners on issues of relevance to them, and an increased amount of taxpayer education and outreach on a broad front. DOR has a vested interest in assisting taxpayers and businesses to become more knowledgeable on tax law because it is another way to increase voluntary compliance.

The regular assessment process is another opportunity for the taxpayer to have assistance as they learn about their responsibility as a taxpayer and the responsibility of the department. The hearings and appeals process was also summarized for the Committee.

David Crotts, Fiscal Research Division, reviewed various incentives for North Carolina businesses and mentioned the most important aspect of the discussion is that there is no special relief for small businesses. He also discussed various tax change proposals with

more focus on special assistance for small firms, including a corporate tax rate cut, exemptions of some amount of taxable corporate income, and a tiered tax rate schedule.

Linda Millsaps, Fiscal Research Division, reviewed questions raised by this committee related to sales tax and other issues raised by constituents. The two issues that have come up repeatedly concern how often people actually have to turn in sales tax returns and their payments and how cash vs. accrual accounting relates to sales tax payments. The four categories of payers are: quarterly, monthly, semi-monthly and seasonal, each having their own payer requirements. 50% of taxpayers are required to pay on a quarterly basis, 47% pay on a monthly basis and 3% pay on a semi-monthly basis. The 3% of taxpayers paying on a semi-monthly basis pay 63% of the money collected by the state. During the 2001 Session, House Bill 232 moved the threshold for semi-monthly payers from \$20,000 to \$10,000, accelerated the payment schedule for some of the state's largest utilities to semi-monthly, and accelerated the franchise and excise tax payments for all utilities to a semi-monthly basis.

The last issue discussed was cash vs. accrual accounting. The question raised in an earlier meeting was whether DOR wanted small businesses to be on a cash basis. Under G.S. 105-164.20 a retailer may report on a cash or accrual basis, but must choose by applying to the Secretary of the Department of Revenue.

March 3, 2004

□ REGULATORY ISSUES

Bill Ross, Secretary, North Carolina Department of Environment and Natural Resources

Cherie Berry, Commissioner, North Carolina Department of Labor

Summary:

The North Carolina Department of Environment and Natural Resources (DENR) presented the regulatory responsibilities of the department. The "1-STOP" permitting process and express permitting pilot program were discussed as ways get all the parties to the table at one time, so a more timely decision can be made about permitting requirements. The department has done a lot of work on general certifications/permits in order to help small businesses. This is based on the idea that below a certain threshold, the impact of those activities is so small, that permitting on an individual basis is not needed, but can be done through a general permit or on a group basis.

Sedimentation remains one of the biggest water quality challenges, but some progress has been made. The sedimentation program is an example of a program with great potential for delegation to local governments, but has been only partially realized. DENR believes there is great potential for making the regulatory system work better for small business if some of the responsibility is delegated to local governments.

Some of DENR's non-regulatory functions were then discussed, such as the ombudsman office that provides information to both small and large businesses, Pollution Prevention and Environmental Assistance, and Environmental Stewardship Initiative. The department is also conducting sector-focus work, such as with the dry cleaning industry where DENR is helping these small businesses deal with contamination at their sites. This work has grown out of a conservation initiative called "One North Carolina Naturally". The idea in this effort is that the public benefits from conservation measures that are implemented on private land. The Ecosystem Enhancement Program (EEP), which is a partnership among DENR, the Department of Transportation (DOT) and the U. S. Army Corps of Engineers, is tasked with trying to find a way to do a better job of mitigating the unavoidable impact of highway construction.

DENR was asked to provide more information on why the department adopts rules that are more restrictive than those of the federal government. They agreed to return at the 4/6 meeting to discuss regulations in more detail and asked that specific concerns be forwarded to them.

The North Carolina Department of Labor (DOL) presented their responsibilities on regulatory issues. They have responsibility for the safety and health of approximately four million employees in the state who work in over 200,000 places of business. There are seven DOL bureaus which are regulatory in nature: Wage and Hour, Employment Discrimination, Boiler Safety, Elevator and Amusement Devices, Mine and Quarry, the Office of Safety and Health, and Agricultural Safety and Health. There are laws, regulations and standards that Labor has to enforce and they are trying to do that in a way that will benefit the business community and employees across the state.

DOL is taking the education and training approach in working with other industries to develop their own voluntary guidelines. DOL is not interested in levying heavy fines against the business community, but is interested in showing them where they need to improve their safety and health programs.

The Committee closed the meeting by further discussing the proposed tax changes to aid small businesses that were presented in the previous meeting.

March 31, 2004

□ **HEALTH INSURANCE AND NORTH CAROLINA'S RURAL SMALL BUSINESSES**

Nam Douglass, Senior Associate of Civic and Social Infrastructure, NC Rural Economic Development Center

□ **PERSPECTIVES FROM SMALL BUSINESS OWNERS**

Davy Davidson, Engineered Plastics Inc., Gibsonville
Joe Stanley, Joe & Moe's Auto Service, Shallotte

- **PROFILE OF UNINSURED CITIZENS IN NORTH CAROLINA**
Mark Holmes, PhD, UNC-CH Cecil B. Sheps Center
- **HIGH HEALTH INSURANCE PREMIUMS: SOME OF THE CAUSES AND CONSIDERATIONS FOR MANAGING THEM**
Barbara Morales Burke, Senior Deputy Commissioner, NC Department of Insurance
- **OVERVIEW OF THE NORTH CAROLINA WORKERS COMPENSATION SYSTEM**
Buck Lattimore, Chairman, North Carolina Industrial Commission
- **PERSPECTIVES FROM SMALL BUSINESS OWNERS**
Jeff Russell, Major Business Systems, Hillsborough
- **WORKERS' COMPENSATION ISSUES IMPACTING EMPLOYERS**
Mike Sigmon, J.D., Brooks, Stevens & Pope, P.A.
- **WORKERS' COMPENSATION ISSUES IMPACTING WORKERS**
Leonard Jernigan, J.D., Board Certified Specialist in Workers' Compensation Law and author, "North Carolina Workers' Compensation - Law and Practice"

Summary:

This extended meeting was divided into two subject areas: healthcare issues and workers' compensation issues.

The North Carolina Rural Economic Development Center presented an overview of health insurance in North Carolina and the growing crisis it presents for small businesses and rural workers. The Center has conducted extensive research into the problem and found that in North Carolina over 1.1 million people are uninsured, with 20% of the labor force in that category. Rural areas are hardest hit by the declining ability of employers to provide adequate coverage and by the declining number of providers of small group insurance. The impact of this trend is that top employees are lost as better benefits are found in more urban areas. The response from the Rural Center is to launch a research effort to answer questions about the small group health insurance market and the status of small business health insurance and to partner with key stakeholders to consider the research and develop recommendations for action.

Two small business owners provided their perspective on the healthcare issue. Employees consider health coverage their most important benefit to the extent that they have eliminated every other company-paid employee benefit. Suggestions made included: try again to form pools of small companies to buy health insurance; ask state government to maintain firm, diligent oversight of large HMOs and insurance carriers to make sure they offer affordable health insurance to all North Carolinians.

Research from the UNC Cecil G. Sheps Center for Health Services Research was presented to the Committee. The findings were as follows: a) of all workers in North

Carolina, those working in rural, small businesses are going to be the most likely to be uninsured; b) most of the uninsured workers in NC are employed by a small business – in businesses with 25 or fewer workers, 53% are in rural areas and 47 % in urban areas, while in businesses with 50 or fewer workers, the percentages would be higher; c) relative to neighboring states, premiums in North Carolina are higher, both in terms of the total and the employer's share; d) statewide averages may mask substantial differences within the state; and e) a look at the state average would show that North Carolina is not bad, but a look at the differences within the state reveals the small business/large business disparity that cannot be picked up in any other measure.

The idea of mandatory coverage was discussed, and the speaker responded in the short run there would be a positive effect, coverage rates would go up, premiums would go down, and costs for businesses would look much better. In the end, though, there would probably be firms starting to pull out of this scenario as they could no longer compete in the environment and it would probably result in little choice and eventually no firms offering coverage at all.

The North Carolina Department of Insurance presented the department's findings on high health insurance premiums and how to manage them. Though high premiums are a national problem, a lot of the best potential solutions are not necessarily federal laws that would regulate health insurance, but may be local solutions. On average, 85% of every health insurance premium dollar goes to pay for covered medical services and it stands to reason that any effort to reduce health insurance premiums in a meaningful way must ultimately reduce medical expenses and focus on that task rather than strictly on the insurance regulation aspect. Areas for further research were also provided.

The small group rating methodology and DOI's rate review authority for health insurance were detailed. Every insurer must start their small group rating calculation by using the average cost – the community rate for their total book of small group business. From that point, they can adjust for certain factors, the age, sex, family size, and geographic location of the employer. Then, they may apply rate bands, which are an allowed differential between healthy groups and sick groups. A 40% rate band (up to + or – 20% from the adjusted community rate) is allowed for renewals. These adjustments taken within the rate bands are based on that group's experience or expected experience. It is a blend of community rate and experience rate. North Carolina has such laws that require that small group rates be developed in this manner.

DOI mentioned moving small group rates to a community rate methodology. It was noted there needed to be careful consideration to the impact of doing so, adding that it is very complex. What NC has now is a blend where we start with a community rate and move off of it with some adjustments. If we move to a pure community group rating situation, there could be cases where less healthy groups would have less of a rate differential and be paying less, while healthier groups would have less of a differential but they would be paying more. The effect could be that some of the healthier people are driven out of the market, which then would cause the community rate to rise and then those individuals who are sicker are not being helped as much as intended.

Representative Wilson passed out a copy of proposed legislation from the House Select Committee on the Rising Cost of Health Care. This proposal contains a recommendation to form the North Carolina Health Insurance Innovations Commission that will have major stakeholders across the state on board with the idea of regional pilot programs for the small business health insurance market. The Committee agreed to support this legislation.

The Committee also questioned a representative of Blue Cross Blue Shield about drug costs. Roughly 20% of their claims paid are for prescription drugs.

The North Carolina Industrial Commission reviewed workers' compensation issues and the Commission's role in the process. The Commission has been assigned responsibility of overseeing the Workers' Compensation Act in NC and that is 90% of what it does. Every employer with three or more workers is required to carry Workers' Compensation insurance. North Carolina's on-the-job injuries and the total number of workers' compensation claims have declined in recent years. Workers' compensation insurance base rates have also dropped in recent years. In addition, 88% of workers' compensation claims are handled administratively through the Commission and many of the remaining 12% contested cases are settled through hearings and mediation. One area of focus has been on mediation of claims in order to get "certain and speedy relief" for workers and employers.

Part of the criticism of workers' compensation goes to the fact that the Commission must work with not just the law, but also with the interpretation of the law by the Supreme Court and the Court of Appeals. The system was established to be a compromise, in that employees gave up their right to sue employers for negligence and in return employees would receive a fixed amount in case of injury and not being able to work. The courts have said that in close cases the benefit of the doubt should always be given to the employee. The Workers' Compensation Act is to be construed liberally so as not to deny benefits, so it is well established that the evidence should be considered in the light most favorable to the plaintiff. It is not a level playing field because of the way the law was established as a compromise between two entities.

The Commission answered questions related to workers' compensation insurance rates. The only rates the Commission can set are for hospitals and medical care under workers' comp. The rates that are paid by employers for workers' compensation coverage are out of the Commission's control. The base rates have not been rising, in part due to the workers' compensation reform in the early 1990s; however, modifiers used by the insurance industry to change the base rates may be causing the complaints of rising costs.

One small business owner provided a perspective on the workers' compensation issue. Three issues to address were related to reserves vs. actual costs incurred, expected loss with no occurrences, and a basis of three years on claims and payroll. Workers' compensation insurance rates are very complicated, yet these issues affect rates and should be studied further.

An attorney who represents business provided his perspective on the 12% of contested cases mentioned during the Industrial Commission's presentation. One change proposal would be to subject members of the Commission to a judicial standard of conduct such as the code of conduct for state administrative law judges. It was recommended that the appeals process should also be reviewed. Further recommendations for changing the law will be provided in writing to committee staff.

An attorney who represents employees provided his perspective on the workers' compensation system. It was recommended to find a way to make sure that employers have workers' compensation insurance, that the Industrial Commission Orders and Rules are obeyed promptly, that the provision for quickly responding to a claim should be strengthened, and that the effectiveness of claims adjusting by the insurance industry should be reviewed.

April 6, 2004

- ❑ **NORTH CAROLINA RATE BUREAU**
Raymond Evans, General Manager, NCRB
- ❑ **SCHOOL START DATE**
Representative Connie Wilson
Dr. James Chandler, PhD, CHA, CHE, East Carolina University
- ❑ **MINORITY ECONOMIC DEVELOPMENT**
Andrea Harris, Vice President, Institute of Minority Economic Development
- ❑ **COMPARISON OF STATE AND FEDERAL ENVIRONMENTAL PROGRAMS**
Robin W. Smith, Assistant Secretary Planning and Policy, Department of Environment and Natural Resources
- ❑ **BUSINESS RESOURCE ALLIANCE**
Leslie Scott, Institute for Rural Entrepreneurship
Scott Daugherty, Small Business Technology Center
Greg Godard, NC Regional Councils
- ❑ **NATIONAL FEDERATION OF INDEPENDENT BUSINESS RECOMMENDATIONS**
Perri Morgan, NFIB NC Director

Summary:

The North Carolina Rate Bureau presented information as a follow-up to questions raised at the previous meeting on the insurance rate structure in North Carolina. The NCRB provided an overview of how they handle rate increases and the trends in workers'

compensation insurance rates in the state. NCRB is responsible for promulgating rules, rates and forms for worker's compensation, residential properties that have four or less units, and private passenger automobile insurance. They are required by statute to file proposed changes for those lines of business, forms, rates and manual rules. The North Carolina Department of Insurance has oversight over all of the Bureau's activities and has final authority on whether to approve or not approve what the Bureau does.

A proposal to change the state's school start dates was presented. It was indicated that student performance does not appear to be detrimentally affected by a later school starting date. A financial analysis was presented to the committee. The purpose of the study was to examine potential economic and financial benefits to North Carolina's hospitality and tourism industry if the start of the public school year were delayed until after the Labor Day holiday. Data collected from North Carolina families and revenue data collected from the North Carolina Department of Revenue indicated a delay in the school starting date could increase statewide revenues. The Committee discussed allowing local school boards in North Carolina to decide to delay the starting of public schools; the effect of bad weather days on the school calendar; and the impact of finishing first semester work and exams before the holiday break.

The North Carolina Institute of Minority Economic Development presented on minority economic development in the state. Various recommendations were provided, including the need for a uniform certification program, promotion of access to association-based health care plans, and the need to use language promoting use of small businesses headquartered in North Carolina in any and all agreements that provide large scale state incentives to major corporations. The Committee discussed the results of a disparity study relative to minority-owned business that showed evidence of significant disparity among various groups of racial and ethnic minorities with regard to utilization.

The Department of Environment and Natural Resources returned to provide further information on the differences between state and federal regulations and environmental programs. It is not possible in most cases to make a side-by-side comparison of state and federal environmental programs because, for the most part, what the federal statutes do is set up a framework for state regulations, leaving many of the actual decisions about standards to the states. Also, the General Assembly has sometimes acted, either directly or by rulemaking through the Environmental Management Commission, to address environmental problems of particular importance in North Carolina. Many rules are the result of extensive negotiations involving regulated industries, state agencies, public interest groups and others. Some state rules are more stringent than the federal government requires, but others are less stringent. Trade-offs exist as the state's programs are developed – some more stringent rules are accompanied by state financial assistance for remediation programs.

The Committee broke from the agenda to discuss the list of possible legislative proposal for the 2004 Session. See the Recommendations section of this report for details.

The North Carolina Business Resource Alliance currently has thirty-four participating organizations and is open to additional public and non-profit partners who provide business assistance. The group came together after recognizing the importance of small business development and entrepreneurship as a driver of the economy. The Alliance saw demand from entrepreneurs who are in a position to be able to grow their business that the Alliance members have resources to support, so they felt that working together and leveraging all the resources would be more productive. The Alliance believes the needs of North Carolina's small businesses are: 1) expanded access to capital; 2) increased access to management and technical assistance and entrepreneurial education; 3) improved regulatory environment; and 4) broadened access to skill workers. From a policy perspective the Alliance would recommend a more balanced portfolio approach to investments and economic development. A list of specific recommendations was provided to the Committee.

The National Federation of Independent Business presented their legislative recommendations to the Committee. The top issues for North Carolina's small business owners currently are: 1) rising costs of health insurance; 2) a qualified workforce; 3) a reasonable and workable regulatory system; 4) business liability (tort reform); and 5) worker's compensation costs.

Health care costs present a problem for small businesses and NFIB recommended that: 1) meaningful medical malpractice reforms be enacted; 2) health savings accounts be adopted; 3) the moratorium on unfunded health care mandates be extended; and 4) a long-term research commission be set up to study the problems and search for long-term answers. The Committee agreed these issues were being addressed through the House Select Committee on the Rising Costs of Healthcare and the legislation presented by Representative Wilson in an earlier meeting. NFIB fully supports economic growth, as well as infrastructure incentives – better roads, basic education and worker training, preservation of natural resources and any other incentive that benefits everyone, but noted the difference between infrastructure incentives which benefit everyone and targeted tax incentives that benefit only a few.

April 26, 2004

The Committee discussed its report recommendations for the upcoming 2004 Session and voted on each one separately. The Committee heard additional information on the proposal to change the school start dates in North Carolina. Representative Wilson presented a draft of her proposed bill that would reduce the number of noninstructional teacher workdays and ensure that public schools open after August 25 and close not after June 10. Teachers may be paid in August if they so desire and salaries will not decrease as a result of the reduction in teacher workdays. After discussion and motion, the Committee agreed to include this proposal as a recommendation in its final report.

Upon discussion and a voice vote, the Committee approved the final report.

COMMITTEE RECOMMENDATIONS

The Joint Select Committee on Small Business Economic Development made findings in 7 areas related to the environment for small businesses in North Carolina. The Committee has 12 recommendations to propose to the 2004 Session of the 2003 General Assembly. The findings and recommendations may be grouped as follows:

- 1. Reduce the corporate income tax burden to encourage the growth and development of small businesses in the State.**
 - See Legislative Proposal 1: states the intent to reduce the corporate income tax.

- 2. Lower the individual income tax rates for the upper income tax bracket to encourage economic growth and development.**
 - See Legislative Proposal 2: sunsets the upper income tax bracket one year early.

- 3. Expand the Commerce Business ServiCenter to include a Small Business Ombudsman.**
 - See Legislative Proposal 3: establishes the Business ServiCenter to: provide the business community with an information resource center; respond to business inquiries; disseminate information regarding State statutory and regulatory requirements to conduct business in the State; work with the small business community to identify problems in State government related to unnecessary delays, inconsistencies between regulatory agencies, and the inefficient and ineffective uses of State resources; work with the business coordinator designated in each State agency to determine the status of requests for information or assistance and to resolve any disputes that may arise between agencies and businesses; make recommendations to agencies and the General Assembly regarding proposed policies, rules, or laws to improve the dissemination of information to small businesses regarding statutory and regulatory requirements; and improve licensing procedures affecting business undertakings, including alternatives such as eliminating, consolidating, simplifying, or expediting particular licenses.

- 4. Expand the pilot Express Review Permitting Program.**
 - See Legislative Proposal 4: establishes statewide, the Express Review Permitting Program to provide express permit and certification reviews. The Express Review Permitting Program may be applied to any one or all of the permits, approvals, or certifications in the following programs: the erosion and sedimentation control program, the coastal management program, and the water quality programs, including water quality certifications and stormwater management.

- 5. Establish a Commission to address issues of affordability and availability of health insurance.**
 - See Legislative Proposal 5: establishes a 24-member Commission to: identify and evaluate the problems small employers face when they attempt to obtain health insurance coverage; initiate regional demonstration projects to pilot innovative health care plans and products to address the problems identified; and develop recommendations for action.

- 6. Promote the use of small businesses headquartered in North Carolina in agreements that provide incentives to corporations.**
 - See Legislative Proposal 6: amends the Job Development Investment Grant legislation to encourage grant recipients to contract with small businesses headquartered in North Carolina.

- 7. Change the school start date process in North Carolina.**
 - See Legislative Proposal 7: reduces the number of noninstructional teacher workdays and provides that public schools shall open after August 25 and close not after June 10. Teachers may be paid in August if they so desire and salaries will not decrease as a result of the reduction in teacher workdays.

- 8. Supports the efforts of the House Select Committee on the Rising Cost of Health Care to extend the moratorium on new healthcare benefits.**
 - In 2001, the General Assembly prohibited an insurer from delivering, issuing, or renewing a health benefit plan after 7/1/2003 that includes any additional coverage requirements beyond those in effect on June 30, 2003. This prohibition remains in effect until July 1, 2005. The House Select Committee on the Rising Cost of Health Care is proposing legislation to extend this moratorium. The extension of the moratorium is recommended to give a study committee more time to address the issue of unfunded health insurance mandates.

- 9. Supports studying the issue of a statewide uniform certification process for Historically Underutilized Businesses (HUBs.)**
 - Currently, the Department of Administration certifies HUBs, but those same businesses must also be certified by the Department of Transportation, airport authorities and local governments. The Committee would like to hear from all the stakeholders in this process to determine if a uniform certification program for HUBs is feasible.

- 10. Supports funding of S.L. 2002-181: NC Small Business Contractor Authority.**
 - S.L. 2002-181 created the North Carolina Small Business Contractor Authority to provide loan guaranties, loans and surety bonds to small businesses that contract with governmental agencies. This Authority was created but never appointed and

has not been funded. The Committee encourages the General Assembly to give strong consideration to funding the Small Business Contractor Authority.

11. Supports future study of the use of unemployment insurance (UI) benefits.

- The federal government allows states to offer a self-employment option for unemployment benefits. This allows unemployment insurance to be converted into self-employment allowance for previously unemployed persons who start a new business. The Committee would like to study this option further.

12. Supports the efforts of the Joint Select Committee on Economic Growth and Development in its bill to remove wage test for Industrial Revenue bonds.

- See draft legislation in Appendix.

13. Supports the efforts of the Joint Select Committee on Economic Growth and Development's bill to enhance Research & Development tax credit.

- Revamp the State's R&D credit to make it more responsive to R&D conducted in NC, especially R&D conducted in conjunction with the State's universities, and remove it from the Bill Lee Act. See draft legislation in Appendix.

Committee Legislative Proposals

The Joint Select Committee on Small Business Economic Development makes the following six legislative proposals to the 2004 Regular Session of the 2003 General Assembly. Each proposal is followed by an explanation and, if it has a fiscal impact, a fiscal memorandum.

Legislative Proposal #1

Corporate Income Tax Changes

A copy of the proposed legislation and fiscal analysis begin on the next page

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H/S

D

BILL DRAFT 2003-LYz-153* [v.3] (4/6)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
5/11/2004 5:44:28 PM

Short Title: Reduce Corporate Income Taxes. (Public)

Sponsors: Representatives LaRoque, Church (Primary Sponsors); Allred, Daughtridge, Decker, Jones, Warner, and C. Wilson./Senators Hoyle, Apodaca, Garwood, Hagan, Hargett, Malone, Smith, Swindell, and Thomas.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE CORPORATE INCOME TAXES.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** It is the intent of the General Assembly to stimulate economic
5 growth and development in the State by encouraging the establishment of new business
6 enterprises and the expansion of existing enterprises. Due to the fact that the State
7 already has a number of economic development incentives that primarily benefit large
8 business, it is the further intent of the General Assembly to provide an economic
9 development incentive that will benefit small business. The General Assembly finds
10 that a reduction of the corporate income tax burden will encourage the growth and
11 development of small businesses in the State.

12 **SECTION 2.** G.S. 105-130.3 reads as rewritten:

13 **"§ 105-130.3. Corporations.**

14 A tax is imposed on the State net income of every C Corporation doing business in
15 this State. An S Corporation is not subject to the tax levied in this section. The tax is a
16 ~~percentage—six and nine-tenths percent (6.9%)~~ of the taxpayer's State net ~~income~~
17 ~~computed as follows:~~

18 Income Years Beginning	18 Tax
19 In 1997	19 7.5%
20 In 1998	20 7.25%
21 In 1999	21 7%
22 After 1999	22 6.9%-income."

23 **SECTION 3.** This act is effective for taxable years beginning on or after
24 January 1, 2004.

Tax Proposals Under Discussion¹

	Effective Date ²	Fiscal Impact-Revised 3/31/04 (\$Mil.)				
		2004-05	2005-06	2006-07	2007-08	2008-09
Lower Corporate Tax Rate from 6.9% to 5.9%	1/1/04	-222.5	-159.4	-169.0	-179.1	-189.9
	1/1/05	-89.3	-159.1	-169.0	-179.1	-189.9
Allow Corporate Tax Exemption:						
\$10,000	1/1/04	-28.7	-19.1	-19.9	-21.2	-22.5
	1/1/05	-9.8	-19.1	-19.9	-21.2	-22.5
\$25,000	1/1/04	-54.8	-38.6	-40.3	-42.8	-45.3
	1/1/05	-19.7	-38.5	-40.3	-42.8	-45.3
\$50,000	1/1/04	-83.6	-59.7	-62.4	-66.1	-70.1
	1/1/05	-30.6	-59.6	-62.4	-66.1	-70.1
\$100,000	1/1/04	-129.5	-93.7	-97.8	-103.5	-109.6
	1/1/05	-48.0	-93.5	-97.8	-103.5	-109.6
Lower Top Personal Income Tax Rate from 8.25% to 7.75%³	1/1/05	-46.9	-57.3	-	-	-
\$20 Tax Credit for Sole Proprietorship and Partnership Income	1/1/04	-26.1	-18.4	-19.2	-20.4	-21.6
	1/1/05	-9.4	-18.4	-19.2	-20.4	-21.6

¹ List reflects commonly discussed items.

² The 2004-05 impact for the proposals effective 1/1/04 includes 100% of the 2004 tax year, plus a portion of 2005 tax due (April and June 2005 estimated tax payments).

³ Under current law, rate sunsets on 1/1/06.

Tiered Tax Rate Schedule:						
Proposal 1: 1-50,000 (4%) 50,001-100,000 (5%) 100,001-250,000 (6%) 250,001 & over (6.9%)	1/1/04	-56.2	-39.4	-41.5	-44.0	-46.6
	1/1/05	-20.1	-39.3	-41.5	-44.0	-46.6
Proposal 2: 1-5,000 (1%) 5,001-10,000 (2%) 10,001-25,000 (3%) 25,001-50,000 (4%) 50,001-100,000 (5%) 100,001-250,000 (6%) 250,001 & over (6.9%)	1/1/04	-68.3	-47.9	-50.2	-53.4	-56.6
	1/1/05	-24.5	-47.8	-50.2	-53.4	-56.6
Proposal 3: 1-3,000 (2%) 3,001-6,000 (3%) 6,001-9,000 (4%) 9,001-12,000 (5%) 12,001-15,000 (6%) 15,001-25,000 (6.5%) 25,001 & over (6.9%)	1/1/04	-18.0	-12.7	-13.3	-14.2	-15.0
	1/1/05	-6.5	-12.6	-13.3	-14.2	-15.0

Legislative Proposal #2

Individual Income Tax Changes

A copy of the proposed legislation and fiscal analysis begin on the next page

FISCAL ANALYSIS MEMORANDUM

[This fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 14, 2004

TO: Joint Select Committee on Small Business Economic Development

FROM: Richard Bostic
Fiscal Research Division

RE: Reduce Personal Income Taxes (Bill Draft 2003-Lyz-154[v.1])

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

(\$million)

FY 2004-05 FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09

REVENUES

General Fund (46.9) (57.3)

EXPENDITURES

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: This bill will eliminate the 8.25% individual income tax bracket in tax year 2005 instead of tax year 2006.

ASSUMPTIONS AND METHODOLOGY: Since the 8.25% tax bracket is scheduled to sunset in tax year 2006, the fiscal impact of the bill will be for tax year 2005 only. The revenue loss from eliminating the 8.25% tax bracket is calculated using an Individual

Income Tax Model created for the General Assembly's Fiscal Research Division by BearingPoint. The model estimates the 8.25% tax bracket will generate \$104.2 million in tax year 2005. Elimination of this tax bracket will thus reduce General Fund revenue by \$104.2 million over two fiscal years. In FY 2004-05, 45% of the revenue loss will occur due to adjustments in withholding and estimated payments from January to June 2005. The remaining 55% of the revenue loss will occur in FY 2005-06 from adjustments in withholding and estimated payments from July to December 2005 and final returns filed in April 2006.

The number of tax filers that will benefit from the tax reduction (as predicted by the model) is shown in the chart below.

<u>Filing Status</u>	<u>Tax Returns</u>	<u>Revenue Loss</u>
Single	20,565	(\$13.6)
Married Filing Jointly	76,504	(\$88.3)
Head of Household	<u>2,318</u>	<u>(\$2.3)</u>
	99,387	(\$104.2)

SOURCES OF DATA: Individual Income Tax Model by BearingPoint

TECHNICAL CONSIDERATIONS:

Legislative Proposal #3

Create Statewide Service Center and
a Small Business Ombudsman

A copy of the proposed legislation and fiscal analysis begin on the next page

1 between regulatory agencies, and the inefficient and ineffective
2 uses of State resources.

3 (3) Implement and administer an automated system to track the
4 number of contacts or inquiries received each year, the nature of
5 each contact or inquiry, and the final resolution offered in
6 response to each contact or inquiry for the purpose of
7 recommending legislative and administrative revisions.

8 (4) Work with the business coordinator designated in each State
9 agency pursuant to G.S. 147-54.17 to determine the status of
10 requests for information or assistance and to resolve any disputes
11 that may arise between agencies and businesses regarding
12 compliance with laws, rules, or policies of the State or agency.

13 (5) Make recommendations to agencies and the General Assembly
14 regarding proposed policies, rules, or laws to improve the
15 dissemination of information to small businesses regarding
16 statutory and regulatory requirements and to improve licensing
17 procedures affecting business undertakings, including
18 alternatives such as eliminating, consolidating, simplifying, or
19 expediting particular licenses.

20 (b) The Business Service Center shall adopt rules and forms necessary to
21 carry out the purposes of this Part.

22 "§ 143B-472.101. Confidentiality of requests.

23 At the request of the person or applicant, the identity of the person or other
24 entity requesting assistance or information pursuant to this Part shall remain
25 confidential and shall not be disseminated to any State agency or person outside
26 the Business Service Center. This section does not apply where the health, safety,
27 or welfare of the citizens of the State is at risk. The Secretary shall adopt rules,
28 including exceptions to the confidentiality requirement, to implement this section.

29 "§ 143B-472.102. Reporting requirements of the Secretary of Commerce.

30 The Secretary may report to the Joint Legislative Commission on
31 Governmental Operations on recommended legislative proposals or administrative
32 revisions to improve State government communications and relations with the
33 public and to make those communications and relations more effective and
34 efficient."

35 **SECTION 2.** G.S. 147-54.17 reads as rewritten:

36 "**§ 147-54.17. ~~License coordinator~~ Coordinator designated in all State**
37 **agencies.**

38 (a) Each agency shall cooperate fully with the Office in providing
39 information on the ~~licenses-forms, licenses,~~ and regulatory requirements of the
40 agency, in coordinating conferences with applicants to clarify license and
41 regulatory requirements, and in developing a plan for an automated master
42 application system.

1 | (b) Each agency shall designate a business ~~license~~—coordinator. The
2 | coordinator shall have the following responsibilities:

3 | (1) To provide to the Office the most recent application and
4 | supplemental forms required for each license issued by the
5 | ~~agency~~, agency and for conducting business under the regulatory
6 | authority of the agency, the most recent information available on
7 | existing and proposed agency rules, the most recent information
8 | on changes or proposed changes in license requirements or
9 | agency rules and how those changes will affect the business
10 | community, and agency publications that would be of aid or
11 | interest to the business ~~community~~; community.

12 | (2) To work with the Office in scheduling conferences for applicants
13 | as provided under ~~G.S. 147-54.15~~; G.S. 147-54.15.

14 | (3) To determine, upon request of an applicant or the Office, the
15 | status of a license application or renewal, the reason for any
16 | delay in the license review process, and the action needed to end
17 | the delay; and to notify the applicant or Office, as appropriate, of
18 | those ~~findings~~; findings.

19 | (4) To work with the Office or applicant, upon request, to resolve
20 | any dispute that may arise between the agency and the applicant
21 | during the review ~~process~~; process.

22 | (4a) To determine, upon the request of a business or the Business
23 | Service Center of the Department of Commerce, the status of a
24 | request for information or assistance regarding any requirements
25 | or actions of the agency, the reason for any delay in the agency's
26 | response, and the action needed to end the delay; and to notify
27 | the applicant or Business Service Center, as appropriate, of those
28 | findings.

29 | (4b) To work with the Business Service Center of the Department of
30 | Commerce or business, upon request, to resolve any dispute that
31 | may arise between the agency and business regarding the
32 | compliance with laws, rules, or policies of the State or agency.

33 | (5) To review agency regulatory and license requirements and to
34 | provide a written report to the Office that identifies the
35 | regulatory and licensing requirements that affect the business
36 | community; indicates which, if any, requirements should be
37 | eliminated, modified, or consolidated with other requirements;
38 | and explains the need for continuing those requirements not
39 | recommended for elimination."

40 | **SECTION 3.** This act is effective when it becomes law.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 13, 2004

TO: Joint Select Committee on Small Business Economic Development

FROM: Kelly Huffstetler
Fiscal Research Division

RE: Expanding the Commerce ServiCenter

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
REVENUES					
EXPENDITURES	\$222,968	\$216,321	\$219,744	\$223,238	\$226,804
POSITIONS:	4	4	4	4	4
PRINCIPAL DEPARTMENT(S) & The Department of Commerce PROGRAM(S) AFFECTED:					
EFFECTIVE DATE: Bill becomes effective when it becomes law.					

BILL SUMMARY:

The Department of Commerce will expand the Business ServiCenter, currently a pilot program serving western North Carolina, to serve the entire State. The Department will hire four additional staff to respond to business inquiries. Among the four staff will be a small business ombudsman. The ombudsman will have the authority to intercede on behalf of a business to assure a quick issue resolution of any problems that arise within state government. The ombudsman will also advocate on behalf of issues affecting entrepreneurs and small business within the Department of Commerce.

ASSUMPTIONS AND METHODOLOGY:

In 2003 the Department of Commerce created a pilot program to assist North Carolina businesses with inquires. This Business ServiCenter was started as a cooperative program with funding provided by the Appalachian Regional Commission, Small Business Technology Development Center and the Department. The target area for the pilot was western North Carolina. In order to expand the ServiCenter to meet the needs of the entire state, the Department requires four new positions. The positions, salaries and benefits are detailed in the table below.

Position	Salary	Benefits	TOTAL
ServiCenter Manager	\$52,000	\$10,410	\$62,410
Small Business Specialist	\$40,000	\$8,880	\$48,880
Small Business Ombudsman	\$40,000	\$8,880	\$48,880
Small Business Assistant	\$30,000	\$7,458	\$37,458
TOTAL	\$162,000	\$35,468	\$197,468

Although Economy.com estimates average salary increases for most jobs to 4% on annually, the 10-year average salary increases for State employees has been 2.07%. There will be start up costs of \$10,000 and estimated annual operating expenses of \$15,500. The chart below details the estimated total cost, using a 2.07% inflationary increase for salaries.

	2005	2006	2007	2008	2009
salaries	\$162,000	\$165,353	\$168,776	\$172,270	\$175,836
benefits	\$35,468	\$35,468	\$35,468	\$35,468	\$35,468
operating	\$25,500	\$15,500	\$15,500	\$15,500	\$15,500
total	\$222,968	\$216,321	\$219,744	\$223,238	\$226,804

SOURCES OF DATA: The Department of Commerce

TECHNICAL CONSIDERATIONS: none

Legislative Proposal # 4

Expand the Express Review Permitting Program

A copy of the proposed legislation and fiscal analysis begin on the next page

1 (3) Water quality certification under Article 21 of Chapter 143 of the
2 General Statutes.

3 (4) Erosion and sedimentation control permits under Article 4 of
4 Chapter 113A of the General Statutes.

5 (5) Permits under the Coastal Area Management Act (CAMA), Part
6 4 of Article 7 of Chapter 113A of the General Statutes.

7 **"§ 143B-344.41. Fees for express review permits.**

8 The Department of Environment and Natural Resources may determine the
9 fees for express application review under the Express Review Program.
10 Notwithstanding G.S. 143-215.3D, the maximum permit application fee to be
11 charged under this section for the express review of a project application requiring
12 all of the permits under subdivisions (1) through (5) of G.S. 143B-344.40 shall not
13 exceed five thousand five hundred dollars (\$5,500). Notwithstanding G.S.
14 143-215.3D, the maximum permit application fee to be charged for the express
15 review of a project application requiring all of the permits under subdivisions (1)
16 through (4) of G.S. 143B-344.40 shall not exceed four thousand five hundred
17 dollars (\$4,500). Notwithstanding G.S. 143-215.3D, the maximum permit
18 application fee charged for the express review of a project application for any
19 other combination of permits under subdivisions (1) through (5) of G.S. 143B-
20 344.40 shall not exceed four thousand dollars (\$4,000). Express review of a
21 project application involving additional permits or certifications issued by the
22 Department of Environment and Natural Resources other than those under
23 subdivisions (1) through (5) of G.S. 143B-344.40 may be allowed by the
24 Department, and, notwithstanding G.S. 143-215.3D or any other statute or rule
25 that sets a permit fee, the maximum permit application fee charged for the express
26 review of a project application shall not exceed four thousand dollars (\$4,000),
27 plus one hundred fifty percent (150%) of the fee that would otherwise apply by
28 statute or rule for that particular permit or certification. Additional fees, not to
29 exceed fifty percent (50%) of the original permit application fee under this section,
30 may be charged for subsequent reviews due to the insufficiency of the permit
31 applications. The Department of Environment and Natural Resources may
32 establish the procedure by which the amount of the fees under this subsection is
33 determined.

34 **"§ 143B-344.42. Express Review Fund.**

35 The Express Review Fund is created as a special non-reverting fund. The
36 Express Review Fund shall be used for the costs of implementing the Express
37 Review Program under this part. All fees collected under this part shall be credited
38 to the Express Review Fund. If the Express Review Program is abolished, the
39 funds in the Express Review Fund shall be credited to the General Fund."

40 **SECTION 2.** This act is effective when it becomes law.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 13, 2004

TO: Small Business Economic Development Commission

FROM: Jennifer Haygood
Fiscal Research Division

RE: Statewide Expansion of Express Permitting Program

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
General Fund					
REVENUES	\$331,636	\$858,194	\$1,300,293	\$1,300,293	\$1,300,293
EXPENDITURES	\$1,326,543	\$1,300,293	\$1,300,293	\$1,300,293	\$1,300,293
POSITIONS:	21.0	21.0	21.0	21.0	21.0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources: Division of Land Resources, Division of Water Quality, Division of Coastal Management					
EFFECTIVE DATE: July 1, 2004					

BILL SUMMARY: S.L. 2003-284 directed the Department of Environment and Natural Resources (DENR) to develop an Express Review Pilot Program. Under this voluntary program, permit applicants agree to pay higher permit fees to cover the cost of an expedited review of environmental permits. Currently, pilot programs are operating out of DENR's Wilmington and Raleigh Regional Offices. This proposal would expand the Express Permitting Program to DENR's five remaining regional offices in Washington,

Fayetteville, Winston-Salem, Mooresville, and Asheville. This expedited service focuses on stormwater, non-discharge, 401 water quality certifications, erosion and sedimentation control, and Coastal Area Management Act (CAMA) permits.

ASSUMPTIONS AND METHODOLOGY:

Revenues:

The Express Review Permitting Program is intended to be self-supporting. Therefore, fee rates will be based upon a cost-recovery model. Permit fees will vary depending on the resources required to review each application. However, S.L. 2003-284 outlined maximum fees that limit what DENR may charge. Due to these limits and the time needed to start-up the program at new sites, DENR estimates that Express Permitting fees will cover 25% of program costs in the first year of implementation, 66% of costs in the second year, and 100% of costs in subsequent years.

Expenditures:

To expand the Express Permitting Program, DENR will need to establish 20.0 new Environmental Engineer II positions and 1.0 Express Permitting Coordinator position. Table A describes the distribution of these positions among the regional offices. Each regional office will have one environmental engineer to focus on each of the following areas: stormwater, 401 certification, and non-discharge permits. Each office will also have one engineer to focus on erosion and sedimentation control permits, except for Winston-Salem and Mooresville, which will share one position. An additional engineer will be established at the Washington Regional Office to handle CAMA permits.

Table A: New Positions

	Washington	Fayetteville	Winston-Salem*	Mooresville*	Asheville
Environmental Engineer II	5.0	4.0	3.5	3.5	4.0
Express Permitting Coordinator	-	-	-	1.0	-

*One environmental engineer will provide support to both the Winston-Salem and Mooresville offices.

The annual salary for an Environmental Engineer II is \$46,793 and for the Express Permitting Coordinator is \$40,000. Consequently, the annual cost of the additional 21.0 employees plus benefits is estimated to be \$1,178,892. In addition to personnel expenses, the program will also incur recurring operating expenses (rent, travel, telephone, supplies, etc.) of approximately \$121,401 per year and one-time equipment expenses of \$26,250.

SOURCES OF DATA: Department of Environment and Natural Resources

TECHNICAL CONSIDERATIONS: N/A

Legislative Proposal #5

Establish a Commission to Address Issues of Affordability
and Availability of Health Insurance

A copy of the proposed legislation begins on the next page

1 establishment of the North Carolina Health Insurance Innovations Commission in
2 accordance with this Act.

3 **SECTION 2.** Commission established. There is established the North
4 Carolina Health Insurance Innovations Commission. The Commission shall
5 consist of 24 members, appointed as follows:

6 (1) Twelve members appointed by the General Assembly, six upon
7 the recommendation of each of the Speakers of the House of
8 Representatives. Upon appointment each speaker shall designate
9 a co-chair.

10 (2) Twelve members appointed by the General Assembly upon the
11 recommendation of the President Pro Tempore of the Senate.
12 Upon appointment the President Pro Tempore shall designate a
13 co-chair.

14 The appointing authorities shall ensure that members of the Commission are
15 representative of the following: three who represent health insurers, three
16 physicians licensed to practice in this State, three who represent hospitals located
17 in this State, two who represent businesses with fewer than fifty employees, two
18 who represent businesses with fifty employees or more, one who represents
19 insurance brokers or agents, and one who represents health researchers and policy
20 experts, The appointing authorities shall also ensure that appointments reflect
21 representation among the regions of the State.

22 **SECTION 3.(a)** Commission duties and responsibilities. The
23 Commission shall do the following:

24 (1) Adopt procedures and implement other administrative
25 requirements necessary to carry out its duties under this act.

26 (2) Identify and evaluate comprehensively the problems small
27 employers face when they attempt to obtain health insurance
28 coverage for themselves and their employees, and consider the
29 impact these problems have for large employees and the
30 communities they serve.

31 (3) Initiate regional demonstration projects to pilot innovative health
32 care plans and products to address the problems identified.
33 Innovative products may include piloted community education
34 programs targeted at top illnesses in an effort to increase early
35 detection of these illnesses. Innovative plans may also include
36 piloted programs targeted at increasing the demand for health
37 insurance coverage by both employers and employees through
38 the use of policy incentives. Innovative plans and products are
39 subject to the approval of the Commissioner of Insurance as
40 provided in Section 5 of this act.

41 (4) Develop clear and substantive recommendations for actions that
42 must be taken by health insurance carriers, health care providers,
43 government, small business employers, large business employers,

1 consumers and consumer groups, in order to improve the
2 availability and affordability of small employer health insurance
3 coverage within the next three years.

- 4 (5) Provide a report on the Commission's activities to the 2005
5 General Assembly, Regular Session 2006, upon its convening.
6 Reports to the General Assembly shall include proposed
7 legislation necessary to carry out the purposes of this Act.

8 **SECTION 3.(b)** The Commission shall consider the following issues
9 and strategies in developing regional demonstration projects and other approaches
10 to address the rising cost of health care:

- 11 (1) Feasibility of establishing chronic disease management programs
12 similar to those that are working successfully in this State and
13 other states.
14 (2) The cost-effectiveness of existing and proposed health insurance
15 coverage mandates.
16 (3) Promoting collaboration among providers, insurers, government
17 agencies, and consumers to improve health care affordability.
18 (4) Promoting consumer education about available insurance
19 products and promoting education of small business owners
20 about the available insurance products, available services to
21 assist them in understanding and selecting appropriate insurance
22 plans, and current small business tax benefits regarding health
23 insurance deductions.
24 (5) Review and evaluate "consumer driven" benefit plans.
25 (6) Increasing efforts and resources to educate and motivate
26 consumers to use health care resources appropriately.
27 (7) Rewarding technological innovation based in quality and
28 evidence-based outcomes that provide increased value to
29 consumers over existing treatments.
30 (8) Encourage case management of high utilizers.
31 (9) Promoting evidence-based medicine.

32 **SECTION 4.** Meetings; staff; funding. Members shall serve an initial
33 2-year term and may be reappointed for an additional 2-year term. The
34 Commission shall secure federal or private funds to conduct meetings, hire
35 professional staff, support demonstration plans and products, and cover any other
36 costs incurred by the Commission in carrying out its duties under this Act. The
37 Department of Insurance shall, at the request of the Commission, provide technical
38 assistance in the preparation of grant proposals for federal and other non-State
39 funding to support the work of the Commission, in the preparation of forms, and in
40 other related matters. The Commission may meet in the Legislative Building or
41 the Legislative Office Building, as approved by the Legislative Services
42 Commission, or at any other location deemed appropriate by the Health Insurance
43 Innovations Commission. The Commission may enter into agreements and

1 allocate federal or private funds obtained by the Commission with the University
2 of North Carolina – Charlotte and other public or private entities to provide
3 meeting space, professional services and support staff, and other services
4 necessary for the Commission to carry out its duties and responsibilities under this
5 act.

6 **SECTION 5.** Waiver of rules. The Commissioner of Insurance shall
7 review all pilot programs and innovative plans and products proposed by the North
8 Carolina Health Insurance Innovations Commission. If the Commissioner
9 determines that the proposed programs, plans, or products are in the interest of the
10 citizens of this State and are not contrary to the public policy of this State, then the
11 Commissioner may approve them. If the approved programs, plans, or products
12 are in conflict with or contrary to rules adopted by the Commissioner, the
13 Commissioner may waive the rules adopted by the Commissioner to allow
14 implementation of the programs, plans, or products. Waivers granted by the
15 Commissioner under this section shall expire three years from the date the waiver
16 is granted or December 31, 2008, whichever occurs first.

17 **SECTION 6.** Funds obtained by the North Carolina Health Innovations
18 Commission for operations and programs of the Commission shall be deposited
19 with the State Treasurer for credit to the Legislative Services Office. The
20 Legislative Services Office shall allocate these funds for reimbursement to the
21 Commission for operation and program costs incurred.

22 **SECTION 7.** Nothing in this act obligates the General Assembly to
23 appropriate funds to implement this act. This act becomes effective July 1, 2004.
24

Legislative Proposal #6

Amend Job Development Investment Grant Statute

A copy of the proposed legislation begins on the next page

Legislative Proposal #7

School Calendar Changes

A copy of the proposed legislation begins on the next page

1 instructional hours may count towards the required minimum to
2 the extent allowed by State Board policy. The school calendar
3 shall include a plan for making up days and instructional hours
4 missed when schools are not opened due to inclement weather.

5 (1a) **(Applies only to 2002-2003 school year – See editor's note.)**

6 Notwithstanding subdivision (1) of this subsection, a local board
7 may decide to make up a maximum of three instructional days by
8 adding instructional hours to previously scheduled instructional
9 days. A local board shall make this decision only if all of the
10 following criteria are met:

- 11 a. The days to be made up were missed when schools were
12 unable to be opened due to unusual and extraordinary
13 inclement weather conditions.
- 14 b. It would cause undue hardship to parents, children, and
15 teachers to make up those days.
- 16 c. The school calendar continues to have a minimum of
17 1,000 instructional hours covering at least nine months.
- 18 d. The additional hours must equal the regularly scheduled
19 number of instructional hours at each school.

20 If a local board adds instructional hours to previously
21 scheduled days under this subdivision, the local school
22 administrative unit is deemed to have a minimum of 180
23 days of instruction, teachers employed for a 10-month
24 term are deemed to have been employed for the days
25 being made up, and all other employees shall be
26 compensated as if they had worked the days being made
27 up.

- 28 (2) A minimum of 10 annual vacation leave days.
- 29 (3) The same or an equivalent number of legal holidays occurring
30 within the school calendar as those designated by the State
31 Personnel Commission for State employees.

- 32 (4) ~~Eight-Five~~ days, as designated by the local board, for use as
33 teacher ~~workdays, additional instructional days, or other lawful~~
34 ~~purposes. A local board may delegate to the individual schools~~
35 ~~some or all of the eight days to schedule under subdivision (5) of~~
36 ~~this subsection. A local board may schedule different purposes~~
37 ~~for different personnel on any given day and is not required to~~
38 ~~schedule the same dates for all personnel.~~ workdays. These days
39 shall be protected to allow teachers to complete instructional and
40 classroom administrative duties. The local school administrative
41 unit shall not impose any additional tasks on these days. The
42 local board shall schedule one of these days at the beginning of
43 the school year and one at the end of each academic quarter.

1 (5) The remaining days scheduled by each school's principal for any
2 of the purposes allowed under subdivision (4) of this subsection.
3 Before scheduling these days, the principal shall work with the
4 school improvement team to determine the days to be scheduled
5 and the purposes for which they should be scheduled. Days may
6 be scheduled and planned for different purposes for different
7 personnel and there is no requirement to schedule the same dates
8 for all personnel. However, if during the last two years the local
9 school administrative unit has made up an average of at least
10 eight days for school closing because of inclement weather, the
11 local board may designate up to two of these days as additional
12 make-up days to be scheduled after the last day of student
13 attendance.

14 Local boards and individual schools are encouraged to use the calendar
15 flexibility in order to meet the annual performance standards set by the State
16 Board. Local boards of education shall consult with parents and the employed
17 public school personnel in the development of the school calendar.

18 Local boards and individual schools shall give teachers at least 14 calendar
19 days' notice before requiring a teacher to work instead of taking vacation leave on
20 days scheduled in accordance with subdivision (4) or (5) of this subsection. A
21 teacher may elect to waive this notice requirement for one or more such days.

22 (b) Limitations. – The following limitations apply when developing the
23 school calendar:

24 (1) The total number of teacher workdays for teachers employed for a
25 10 month term shall not exceed ~~200~~190 days.

26 (2) The calendar shall include at least 42 consecutive days when
27 teacher attendance is not required unless: (i) the school is a
28 year-round school; or (ii) the teacher is employed for a term in
29 excess of 10 months. At the request of the local board of
30 education or of the principal of a school, a teacher may elect to
31 work on one of the 42 days when teacher attendance is not
32 required in lieu of another scheduled workday.

33 (3) School shall not be held on Sundays.

34 (4) Veterans Day shall be a holiday for all public school personnel
35 and for all students enrolled in the public schools.

36 (c) Emergency Conditions. – During any period of emergency in any
37 section of the State where emergency conditions make it necessary, the State
38 Board of Education may order general, and if necessary, extended recesses or
39 adjournment of the public schools.

40 (d) Opening and Closing Dates. – Local boards of education shall determine
41 the dates of opening and closing the public schools under subdivision (a)(1) of this
42 section. Except for year-round schools, the opening date for students shall not be
43 before August 25 and the closing date for students shall not be after June 10. The

1 | State Board of Education may waive this requirement on a showing of good cause.
2 | A local board may revise the scheduled closing date if necessary in order to
3 | comply with the minimum requirements for instructional days or instructional
4 | time. ~~Different opening and closing dates may be fixed for schools in the same~~
5 | ~~administrative unit.~~ For purposes of this subsection, the term 'good cause' means
6 | that schools in the local school administrative unit have been closed an average of
7 | eight days per year during any five of the last 10 years because of severe weather
8 | conditions, energy shortages, power failures, or other emergency situations."

9 | **SECTION 2.** G.S. 115C-302.1(b) reads as rewritten:

10 | "(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10
11 | months. State-allotted months of employment for vocational education to local
12 | boards shall be used for the employment of teachers of vocational and technical
13 | education for a term of employment to be determined by the local boards of
14 | education. However, local boards shall not reduce the term of employment for any
15 | vocational agriculture teacher personnel position that was 12 calendar months for
16 | the 1982-83 school year for any school year thereafter.

17 | Each local board of education shall establish a set date on which monthly
18 | salary payments to State-allotted teachers shall be made. This set pay date may
19 | differ from the end of the month of service. The daily rate of pay for teachers shall
20 | equal ~~one twenty-second~~ one twenty-first of the monthly rate of pay. If requested
21 | by the teacher, the initial pay date for a teacher who is not employed in a year a
22 | year-round school shall be no later than August 31 and shall include a full monthly
23 | payment. Subsequent pay dates shall be spaced no more than one month apart and
24 | shall include a full monthly payment.

25 | Teachers may be prepaid on the monthly pay date for days not yet worked. A
26 | teacher who fails to attend scheduled workdays or who has not worked the number
27 | of days for which the teacher has been paid and who resigns, is dismissed, or
28 | whose contract is not renewed shall repay to the local board any salary payments
29 | received for days not yet worked. A teacher who has been prepaid and continues
30 | to be employed by a local board but fails to attend scheduled workdays may be
31 | subject to dismissal under G.S. 115C-325 or other appropriate discipline.

32 | Any individual teacher who is not employed in a year-round school may be
33 | paid in 12 monthly installments if the teacher so requests on or before the first day
34 | of the school year. The request shall be filed in the local school administrative unit
35 | ~~which~~ that employs the teacher. The payment of the annual salary in 12
36 | installments instead of 10 shall not increase or decrease the teacher's annual salary
37 | nor in any other way alter the contract made between the teacher and the local
38 | school administrative unit. Teachers employed for a period of less than 10 months
39 | shall not receive their salaries in 12 installments."

40 | **SECTION 3.** G.S. 115C-316(a)(2) reads as rewritten:

41 | "(2) School Employees Paid on an Hourly or Other Basis. – Salary
42 | payments to employees other than those covered in G.S.
43 | 115C-272(b)(1), 115C-285(a)(1) and (2), 115C-302.1(b) and

1 115C-316(a)(1) shall be made at a time determined by each local
2 board of education. If requested by the school employee, the
3 initial pay date for one of these employees who is employed for a
4 term of 10 calendar months and is not employed in a year a year-
5 round school shall be no later than August 31 and shall include a
6 full monthly payment. Subsequent pay dates shall be spaced no
7 more than one month apart and shall include a full monthly
8 payment. Expenditures for the salary of these employees from
9 State funds shall be within allocations made by the State Board
10 of Education and in accordance with rules and regulations
11 approved by the State Board of Education concerning allocations
12 of State ~~funds: Provided, that school funds.~~ School employees
13 employed for a term of 10 calendar months in year-round schools
14 shall be paid in 12 equal ~~installments: Provided further, that any~~
15 installments. Any individual school employee employed for a
16 term of 10 calendar months who is not employed in a year-round
17 school may be paid in 12 monthly installments if the employee so
18 requests on or before the first day of the school year. ~~Such~~ This
19 request shall be filed in the local school administrative unit
20 ~~which that~~ employs the employee. The payment of the annual
21 salary in 12 installments instead of 10 shall not increase or
22 decrease ~~said the~~ annual salary nor in any other way alter the
23 contract between the employee and the ~~said local school~~
24 administrative unit. Employees may be prepaid on the set pay
25 date for days not yet worked. An employee who fails to attend
26 scheduled workdays or who has not worked the number of days
27 for which the employee has been paid and who resigns or is
28 dismissed shall repay to the local board any salary payments
29 received for days not yet worked. An employee who has been
30 prepaid and who continues to be employed by a local board but
31 fails to attend scheduled workdays may be subject to dismissal or
32 other appropriate discipline. The daily rate of pay shall equal the
33 number of weekdays in the pay period. Included within the term
34 of employment shall be provided for full-time employees annual
35 vacation leave at the same rate provided for State employees,
36 computed at one-twelfth (1/12) of the annual rate for State
37 employees for each calendar month of employment, to be taken
38 under policies determined by each local board of education. On a
39 day that employees are required to report for a workday but
40 pupils are not required to attend school due to inclement weather,
41 an employee may elect not to report due to hazardous travel
42 conditions and to take one of ~~his that employee's~~ annual vacation
43 days or to make up the day at a time agreed upon by the

1 | employee and ~~his~~the employee's immediate supervisor or
2 principal. On a day that school is closed to employees and pupils
3 due to inclement weather, the employee shall work on the
4 scheduled makeup day. Included within their term of
5 employment, each local board of education shall designate the
6 same or an equivalent number of legal holidays occurring within
7 the period of employment as those designated by the State
8 Personnel Commission for State employees."

9 **SECTION 4.** For school-based employees who are employed during
10 the 2005-2006 school year in the same position in which they were employed
11 during the 2004-2005 school year and who continue to work the same number of
12 hours in a workday, the annual rate of pay beginning with the 2005-2006 school
13 year shall not be reduced as the result of this act.

14 **SECTION 5.** This act becomes effective July 1, 2004, and applies to
15 school years beginning with the 2005-2006 school year.

Appendix A

Extend Moratorium on New Healthcare Benefits

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

H

D

HOUSE DRH30455-LNz-139 (3/22)

Short Title: LRC Study Health Insurance Mandates.

(Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE MORATORIUM ON HEALTH INSURANCE
3 MANDATES TO JULY 1, 2006, AND TO AUTHORIZE THE
4 LEGISLATIVE RESEARCH COMMISSION TO STUDY HEALTH
5 INSURANCE MANDATES, AS RECOMMENDED BY THE HOUSE
6 SELECT COMMITTEE ON THE RISING COST OF HEALTH CARE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Section 3 of S.L. 2001-453 reads as rewritten:

9 "**SECTION 3.** This act is effective when it becomes law. Section 1 of this act
10 expires July 1, ~~2005~~2006."

11 **SECTION 2.** The Legislative Research Commission may study the
12 issue of health insurance mandated benefits and the cost to employers and
13 individuals of unfunded health insurance mandates. In conducting the study, the
14 Commission shall consider cost-benefit analysis to determine the cost-efficiency
15 of mandated benefits, including any cost-benefit analysis performed by the
16 Department of Insurance. In conducting the study the Commission shall consider
17 how health insurance mandates improve patient care, how mandated preventive
18 health services may be cost effective through early detection and treatment of
19 disease, and whether health insurance mandates disproportionately impact small
20 business through increased premium costs. The Commission shall make a
21 progress report to the 2005 General Assembly upon its convening, and shall make
22 its final report to the 2005 General Assembly upon its reconvening. Progress and
23 final reports of the Commission may include recommended legislation.

24 **SECTION 3.** This act is effective when it becomes law.

Appendix B

S.L. 2002-181 NC Small Business Contractor Authority

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2002-181
SENATE BILL 832

1 AN ACT TO PROVIDE FOR CONTRACT FINANCING AND SURETY
2 BONDS FOR SMALL BUSINESSES THAT CONTRACT WITH
3 GOVERNMENTAL AGENCIES.
4

5 The General Assembly of North Carolina enacts:
6

7 **SECTION 1.** Article 10 of Chapter 143B of the General Statutes is
8 amended by adding a new Part to read:

9 "Part 18. Small Business Contractor Act.

10 "§ 143B-472.75. Purpose and intent.

11 The purpose and intent of this Part is to foster economic development and the
12 creation of jobs by providing financial assistance to financially responsible small
13 businesses that are unable to obtain adequate financing and bonding assistance in
14 connection with contracts.

15 "§ 143B-472.76. Definitions.

16 The following definitions apply in this Part:

- 17 (1) Authority. – The North Carolina Small Business Contractor
18 Authority created in this Part.
19 (2) Internal Revenue Code. – The Code as defined in G.S.
20 105-228.90.
21 (3) Contract term. – The term of a contract, including the
22 maintenance or warranty period required by the contract and the
23 period during which the surety may be liable for latent defects.
24 (4) Government agency. – The federal government, the State, an
25 agency, or a political subdivision of the federal government or
26 the State, or a utility regulated by the North Carolina Utilities
27 Commission.
28 (5) Related party. – A party related to the applicant in a manner that
29 would require an attribution of stock to or from the party under
30 section 318 of the Internal Revenue Code.
31 (6) Secretary. – The Secretary of Commerce.

32 "§ 143B-472.77. Authority creation; powers.

33 (a) Creation. – The North Carolina Small Business Contractor Authority is
34 created within the Department of Commerce.

35 (b) Membership. – The Authority consists of 11 members appointed as
36 follows:

- 37 (1) Four members appointed by the General Assembly upon the
38 recommendation of the President Pro Tempore of the Senate, one
39 of whom has experience in underwriting surety bonds.
40 (2) Four members appointed by the General Assembly upon the
41 recommendation of the Speaker of the House of Representatives,
42 one of whom is a present or former governmental employee with
43 experience in administering public contracts.

- 1 (3) Three members appointed by the Governor, one of whom is a
2 licensed general contractor and one of whom is experienced in
3 working for private, nonprofit, small, or underutilized businesses.
- 4 (c) Terms. – Members serve four-year terms, except initial appointments.
5 There is no prohibition against reappointment for subsequent terms. Initial
6 appointments shall begin on January 1, 2003. Each appointing authority shall
7 designate two of its initial appointments to serve four-year terms and the
8 remainder of its initial appointments to serve three-year terms.
- 9 (d) Chair. – The chair shall be elected annually by the members of the
10 Authority from the membership of the Authority and shall be a voting member.
- 11 (e) Compensation. – The Authority members shall receive no salary as a
12 result of serving on the Authority but are entitled to per diem and allowances in
13 accordance with G.S. 138-5.
- 14 (f) Meetings. – The Secretary shall convene the first meeting of the
15 Authority within 60 days after January 1, 2003. Meetings shall be held as
16 necessary as determined by the Authority.
- 17 (g) Quorum. – A majority of the members of the Authority constitutes a
18 quorum for the transaction of business. A vacancy in the membership of the
19 Authority does not impair the right of the quorum to exercise all rights and to
20 perform all duties of the Authority.
- 21 (h) Vacancies. – A vacancy on the Authority resulting from the resignation
22 of a member or otherwise is filled in the same manner in which the original
23 appointment was made, for the balance of the unexpired term. Vacancies in
24 appointments made by the General Assembly shall be filled in accordance with
25 G.S. 120-122.
- 26 (i) Removal. – Members may be removed in accordance with G.S.
27 143B-13. A member who misses three consecutive meetings of the Authority may
28 be removed for nonfeasance.
- 29 (j) Powers and Duties. – The Authority has the following powers and
30 duties:
- 31 (1) To accept grants, loans, contributions, and services.
32 (2) To employ staff, procure supplies, services, and property, and
33 enter into contracts, leases, or other legal agreements, including
34 the procurement of reinsurance, to carry out the purposes of the
35 Authority.
- 36 (3) To acquire, manage, operate, dispose of, or otherwise deal with
37 property, take assignments of rentals and leases, and enter into
38 contracts, leases, agreements, and arrangements that are
39 necessary or incidental to the performance of the duties of the
40 Authority, upon terms and conditions that it considers
41 appropriate.
- 42 (4) To specify the form and content of applications, guaranty
43 agreements, or agreements necessary to fulfill the purposes of
44 this Part.
- 45 (5) To acquire or take assignments of documents executed, obtained,
46 or delivered in connection with assistance provided by the
47 Authority under this Part.
- 48 (6) To fix, determine, charge, and collect any premiums, fees,
49 charges, costs, and expenses in connection with any assistance
50 provided by the Authority under this Part.
- 51 (7) To adopt rules, in accordance with Chapter 150B of the General
52 Statutes, to implement this Part.
- 53 (8) To take any other action necessary to carry out its purposes.

1 (9) To report quarterly to the Joint Legislative Commission on
2 Governmental Operations on the activities of the Authority,
3 including the amount of rates, sureties, and bonds.

4 (k) Limitations. – Notwithstanding any other provision of this Part, the
5 Authority may not provide financial assistance that constitutes raising money on
6 the credit of the State or pledging the faith and credit or the taxing power of the
7 State directly or indirectly for the payment of any debt. Before providing financial
8 assistance to an applicant under this Part, the Authority must obtain the written
9 certification of the Attorney General that the proposed financial assistance does
10 not constitute raising money on the credit of the State or pledging the faith of the
11 State directly or indirectly for the payment of any debt as provided in Section 3(2)
12 of Article V of the North Carolina Constitution.

13 "§ 143B-472.78. Eligibility.

14 To qualify for assistance under this Part, an applicant must meet all of the
15 following requirements:

16 (1) The applicant must be a small business concern that meets the
17 applicable size standards established by the United States Small
18 Business Administration for business loans based on the industry
19 in which the concern, including its affiliates, is primarily engaged
20 and based on the industry in which the concern, not including its
21 affiliates, is primarily engaged. In addition, in the case of an
22 application for bonding assistance, the applicant, including its
23 affiliates, may not have receipts for construction and service
24 contracts in excess of the maximum amount established by the
25 United States Small Business Administration for surety bond
26 guarantee assistance.

27 (2) The applicant must be an individual, or be controlled by one or
28 more individuals, with a reputation for financial responsibility, as
29 determined from creditors, employers, and other individuals with
30 personal knowledge. If the applicant is other than a sole
31 proprietorship, at least seventy percent (70%) of the business
32 must be owned by individuals with a reputation for financial
33 responsibility.

34 (3) The applicant must be a resident of this State or be incorporated
35 in this State and must have its principal place of business in this
36 State.

37 (4) The applicant must demonstrate to the satisfaction of the
38 Authority that it has been unable to obtain adequate financing or
39 bonding on reasonable terms through an authorized company. If
40 the applicant is applying for a guarantee of a loan, the applicant
41 must have applied for and been denied a loan by a financial
42 institution.

43 "§ 143B-472.79. Small Business Contract Financing Fund.

44 (a) Creation and Use. – The Small Business Contract Financing Fund is
45 created as a special revenue fund. Revenue in the Fund does not revert at the end
46 of a fiscal year, and interest and other investment income earned by the Fund
47 accrues to the Fund. The Authority shall use the Fund to make direct loans and
48 guaranty payments required by defaults and to pay the portion of the
49 administrative expenses of the Authority related to making these loans and
50 payments.

51 (b) Content. – The Small Business Contract Financing Fund consists of all
52 of the following revenue:

53 (1) Funds appropriated to the Fund by the State.

54 (2) Repayments of principal of and interest on direct loans.

- (3) Premiums, fees, and any other amounts received by the Authority with respect to financial assistance provided by the Authority.
- (4) Proceeds designated by the Authority from the sale, lease, or other disposition of property or contracts held or acquired by the Authority.
- (5) Investment income of the Fund.
- (6) Any other moneys made available to the Fund.

"§ 143B-472.80. Contract performance assistance authorized.

(a) Type. – The Authority is authorized to provide the following contract performance assistance:

- (1) A guarantee of a loan made to the applicant.
- (2) If the applicant demonstrates to the satisfaction of the Authority that it is unable to obtain money from any other source, a loan to the applicant.

(b) Qualification. – The Authority shall not lend money to an applicant or guarantee a loan unless all of the following requirements are met:

- (1) The applicant meets the requirements of G.S. 143B-472.78.
- (2) The loan is to be used to perform an identified contract, of which the majority of funding is provided by a government agency or a combination of government agencies.
- (3) The loan is to be used for working capital or equipment needed to perform the contract, the cost of which can be repaid from contract proceeds, if the Authority has entered into an agreement with the applicant necessary to secure the loan or guaranty.

(c) Terms and Conditions. – The Authority shall set the terms and conditions for loans and for the guarantee of loans. When the Authority lends money from the Small Business Contract Financing Fund, it shall prepare loan documents that include all of the following:

- (1) The rate of interest on the loan, which shall not exceed any applicable statutory limit for a loan of the same type.
- (2) A payment schedule that provides money to the applicant in the amounts and at the times that the applicant needs the money to perform the contract for which the loan is made.
- (3) A requirement that, before each advance of money is released to the applicant, the applicant and the Authority must co-sign the request for the money.
- (4) Provisions for repayment of the loan.
- (5) Any other provision the Authority considers necessary to secure the loan, including an assignment of, or a lien on, payment under the contract, if allowable.

(d) Maturity. – A loan made by the Authority shall mature not later than the date the applicant is to receive full payment under the identified contract, unless the Authority determines that a later maturity date is required to fulfill the purposes of this Part.

(e) Diversity. – In selecting applicants for assistance, the Authority must consider the need to serve all geographic and political areas and subdivisions of the State.

(f) Limitation. – The total amount of loan guarantees and loans issued to each recipient during a fiscal year shall not exceed fifteen percent (15%) of the amount of money in the Fund as of the beginning of that fiscal year.

"§ 143B-472.81. Small Business Surety Bond Fund.

(a) Creation and Use. – The Small Business Surety Bond Fund is created as a special revenue fund. Revenue in the Fund does not revert at the end of a fiscal year, and interest and other investment income earned by the Fund accrues to the

1 Fund. The Authority shall use the Fund for the purposes of and to pay the
2 expenses of the Authority related to providing bonding assistance.

3 (b) Content. – The Small Business Surety Bond Fund consists of all of the
4 following revenue:

5 (1) Funds appropriated to the Fund by the State.

6 (2) Premiums, fees, and any other amounts received by the Authority
7 with respect to bonding assistance provided by the Authority.

8 (3) Proceeds designated by the Authority from the sale, lease, or
9 other disposition of property or contracts held or acquired by the
10 Authority.

11 (4) Investment income of the Fund.

12 (5) Any other moneys made available to the Fund.

13 **§ 143B-472.82. Bonding assistance authorized.**

14 (a) Guaranty. – Subject to the restrictions of this Part, the Authority, on
15 application, may guarantee a surety for losses incurred under a bid bond, payment
16 bond, or performance bond on an applicant's contract, of which the majority of the
17 funding is provided by a government agency or a combination of government
18 agencies, up to ninety percent (90%) of the surety's losses, or nine hundred
19 thousand dollars (\$900,000), whichever is less. The term of a guaranty under this
20 section shall not exceed the contract term. The Authority may vary the terms and
21 conditions of the guaranty from surety to surety, based on the Authority's history
22 of experience with the surety and other factors that the Authority considers
23 relevant.

24 (b) Notice. – When the Authority provides a guaranty under this section
25 with respect to a contract, it must give the government agencies that are parties to
26 the contract written notice of the guaranty.

27 (c) Bonds. – The Authority may execute and perform bid bonds,
28 performance bonds, and payment bonds as a surety for the benefit of an applicant
29 in connection with a contract, of which the majority of the funding is provided by
30 a government agency or a combination of government agencies.

31 (d) Obligation of State. – The total amount of guarantees issued and bonds
32 executed shall not exceed ninety percent (90%) of the amount of money in the
33 Small Business Surety Bond Fund. The Authority shall not pledge any money
34 other than money in the Fund for payment of a loss or bond. No action by the
35 Authority constitutes the creation of a debt secured by a pledge of the taxing
36 power or the faith and credit of the State or any of its political subdivisions. The
37 face of each guarantee issued or bond executed shall contain a statement that the
38 Authority is obligated to pay the guarantee or bond only from the revenue in the
39 Small Business Surety Bond Fund and that neither the taxing power nor the faith
40 and credit of the State or any of its political subdivisions is pledged in payment of
41 the guarantee or bond. Nothing in this subsection limits the ability of the Authority
42 to obtain reinsurance.

43 (e) Limitation. – The total amount of bonding assistance provided to each
44 recipient during a fiscal year shall not exceed fifteen percent (15%) of the amount
45 of money in the Fund as of the beginning of that fiscal year.

46 (f) Payment. – If the Authority considers it prudent, it may require that
47 payment be made either to the contractor and lending institution or to the bonding
48 authority.

49 **§ 143B-472.83. Bonding assistance conditions.**

50 (a) Requirements. – To obtain bonding assistance under this Part, an
51 applicant must meet the eligibility requirements of G.S. 143B-472.78 and must
52 demonstrate to the satisfaction of the Authority that all of the following apply:

53 (1) A bond is required in order to bid on a contract or to serve as a
54 prime contractor or subcontractor.

1 (2) A bond is not obtainable on reasonable terms and conditions
2 without assistance under this Part.

3 (3) The applicant will not subcontract more than seventy-five
4 percent (75%) of the face value of the contract.

5 (b) Default. – If an applicant or a person that is a related party with respect
6 to the applicant has ever defaulted on a bond or guaranty provided by the
7 Authority, the Authority may approve a guaranty or bond under this Part only if
8 one of the following applies:

9 (1) Five years have elapsed since the time of the default.

10 (2) Every default by the applicant or related party in any program
11 administered by the Authority has been cured.

12 (c) Economic Effect. – Before issuing a guaranty or bond, the Authority
13 must determine that the contract for which a bond is sought to be guaranteed or
14 issued has a substantial economic effect. To determine the economic effect of a
15 contract, the Authority must consider all of the following:

16 (1) The amount of the guaranty obligation.

17 (2) The terms of the bond to be guaranteed.

18 (3) The number of new jobs that will be created by the contract to be
19 bonded.

20 (4) Any other factor that the Authority considers relevant.

21 **"§ 143B-472.84. Surety bonding line.**

22 The Authority may, on application, establish a surety bonding line in order to
23 issue or guarantee multiple bonds to an applicant within preapproved terms,
24 conditions, and limitations.

25 **"§ 143B-472.85. Application.**

26 To apply for assistance from the Authority under this Part, an applicant and,
27 where applicable, a surety must submit to the Authority an application on a form
28 prescribed by the Authority. The application must include any information and
29 documentation the Authority considers necessary to enable the Authority to
30 evaluate the application in accordance with this Part. The Authority may require
31 an applicant to provide an audited balance sheet unless the Authority determines
32 that such a requirement is not necessary or appropriate to fulfill the purposes of
33 this Part.

34 **"§ 143B-472.86. Premiums and fees.**

35 (a) Amount. – The Authority shall by rule set the premiums and fees to be
36 paid for providing assistance under this Part. The premiums and fees set by the
37 Authority shall be payable in the amounts, at the time, and in the manner that the
38 Authority requires. The premiums and fees may vary in amount among
39 transactions and at different stages during the terms of transactions.

40 (b) Rate Standards. – The rate standards in G.S. 58-40-20 apply to
41 premiums set by the Authority under this section. The Authority may also use the
42 forms and rates of rating or advisory organizations licensed under G.S. 58-40-50
43 or G.S. 58-40-55. The Authority may vary from these rates in order to broaden
44 participation by small businesses that are unable to obtain adequate financing and
45 bonding assistance in connection with contracts. The premiums set and forms
46 developed by the Authority under this section must be approved by the
47 Commissioner of Insurance before they may be used.

48 (c) Forms. – The Authority shall develop forms to be used for financing
49 and bonding assistance.

50 **"§ 143B-472.87. False statements; penalty.**

51 (a) Documents. – It is unlawful to knowingly make or cause any false
52 statement or report to be made in any application or in any document submitted to
53 the Authority.

1 | (b) Statements. – It is unlawful to make or cause any false statement or
2 | report to be made to the Authority for the purpose of influencing the action of the
3 | Authority on an application for assistance or affecting assistance, whether or not
4 | assistance has been previously extended.

5 | (c) Penalty. – A violation of this section is a Class 2 misdemeanor."

6 | **SECTION 2.(a)** This act becomes effective January 1, 2003, and
7 | applies to offenses committed or causes of action arising on or after that date.

8 | **SECTION 2.(b)** This act expires June 30, 2006. The expiration of this
9 | act does not affect prosecutions for offenses committed before that date, and the
10 | statutes that would be applicable but for this act remain applicable to those
11 | prosecutions. The expiration of this act does not affect any guarantees or bonds
12 | executed prior to the expiration.

13 | In the General Assembly read three times and ratified this the 3rd day of
14 | October, 2002.

15 |
16 |
17 | s/ Marc Basnight
18 | President Pro Tempore of the Senate

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20 |
21 | s/ James B. Black
22 | Speaker of the House of Representatives

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24 |
25 | s/ Michael F. Easley
26 | Governor

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28 |
29 | Approved 4:37 p.m. this 31st day of October, 2002

Appendix C

Remove Wage Test for Industrial Revenue Bonds

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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D

BILL DRAFT 2003-LYz-150 [v.3] (4/2)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/25/2004 1:05:19 PM**

Short Title: Eliminate IRB Wage Standard.

(Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ELIMINATE THE WAGE STANDARD FOR INDUSTRIAL
3 REVENUE BONDS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 159C-7(b) reads as rewritten:

6 "(b) Findings. – The Secretary shall not approve any proposed industrial
7 project or pollution control project unless the Secretary makes all of the following,
8 applicable findings:

9 (1) In the case of a proposed industrial project,

10 a. ~~That the operator of the proposed project pays, or has~~
11 ~~agreed to pay thereafter, an average weekly manufacturing~~
12 ~~wage that (i) is above the average weekly manufacturing~~
13 ~~wage paid in the county, or (ii) is not less than ten percent~~
14 ~~(10%) above the average weekly manufacturing wage paid~~
15 ~~in the State, and~~

16 b. ~~That~~that the proposed project will not have a materially
17 adverse effect on the environment.

18 (2) In the case of a proposed pollution control project, that the
19 project will have a materially favorable impact on the
20 environment or will prevent or diminish materially the impact of
21 pollution which would otherwise occur.

22 (2a) In the case of a hazardous waste facility or low-level radioactive
23 waste facility that is used as a reduction, recovery or recycling
24 facility, that such project will further the waste management

- 1 goals of North Carolina and will not have an adverse effect upon
 2 public health or a significant adverse effect on the environment.
- 3 (3) In the case of an industrial project or a pollution control project,
 4 except a pollution control project for a public utility,
- 5 a. That the jobs to be generated or saved, directly or
 6 indirectly, by the proposed project will be large enough in
 7 number to have a measurable impact on the area
 8 immediately surrounding the proposed project and will be
 9 commensurate with the size and cost of the proposed
 10 project,
- 11 b. That the proposed operator of the proposed project has
 12 demonstrated or can demonstrate the capability to operate
 13 the project, and
- 14 c. That the financing of the project by the authority will not
 15 cause or result in the abandonment of an existing
 16 industrial or manufacturing facility of the proposed
 17 operator or an affiliate elsewhere within the State unless
 18 the facility is to be abandoned because of obsolescence,
 19 lack of available labor in the area, or site limitations."

20 **SECTION 2.** G.S. 159D-7(b) reads as rewritten:

21 "(b) Findings. – The Secretary shall not approve any proposed project unless
 22 the Secretary makes all of the following, applicable findings:

- 23 (1) In the case of a proposed industrial project,
- 24 a. ~~That the operator of the proposed project pays, or has~~
 25 ~~agreed to pay thereafter, an average weekly manufacturing~~
 26 ~~wage that (i) is above the average weekly manufacturing~~
 27 ~~wage paid in the county in which the project is to be~~
 28 ~~located or (ii) is not less than ten percent (10%) above the~~
 29 ~~average weekly manufacturing wage paid in the State; and~~
- 30 b. ~~That~~ that the proposed project will not have a materially
 31 adverse effect on the environment.
- 32 (2) In the case of a proposed pollution control project, that such
 33 project will have a materially favorable impact on the
 34 environment or will prevent or diminish materially the impact of
 35 pollution which would otherwise occur.
- 36 (2a) In the case of a hazardous waste facility or low-level radioactive
 37 waste facility that is used as a reduction, recovery or recycling
 38 facility, that such project will further the waste management
 39 goals of North Carolina and will not have an adverse effect upon
 40 public health or a significant adverse effect on the environment.
- 41 (3) In any case (whether the proposed project is an industrial or a
 42 pollution control project),

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- a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,
- b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and
- c. That the financing of such project by the agency will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 3. This act is effective when it becomes law.

Appendix D

Enhance R&D Tax Credit

- 1 1. Doctoral/Research Universities, Extensive or
- 2 Intensive.
- 3 2. Masters Colleges and Universities, I or II.
- 4 3. Baccalaureate Colleges, Liberal Arts or General.
- 5 b. It is a constituent institution of The University of North
- 6 Carolina.
- 7 (6) North Carolina university research expenses. – Any amount paid
- 8 or incurred to a North Carolina research university for qualified
- 9 research performed in this State or basic research performed in
- 10 this State.
- 11 (7) Period of measurement. – Defined in the Small Business Size
- 12 Regulations of the federal Small Business Administration.
- 13 (8) Qualified North Carolina research expenses. – Qualified research
- 14 expenses for research performed in this State.
- 15 (9) Receipts. – Defined in the Small Business Size Regulations of
- 16 the federal Small Business Administration.
- 17 (10) Related person. – Defined in G.S. 105-163.010.
- 18 (11) Small business. – A business whose annual receipts, combined
- 19 with the annual receipts of all related persons, for the applicable
- 20 period of measurement did not exceed one million dollars
- 21 (\$1,000,000).

22 **"§ 105-129.51. Administration; sunset.**

23 (a) A taxpayer is eligible for the credit allowed in this Article if it satisfies

24 the requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage

25 standard, health insurance, environmental impact, and safety and health programs,

26 respectively.

27 (b) This Article is repealed for taxable years beginning on or after January

28 1, 20XX.

29 (c) The credit allowed in this Article and the credits allowed in G.S.

30 105-129.10 are exclusive. A taxpayer may elect to take only one of the three

31 credits with respect to its research activities in a taxable year. It may elect a

32 different credit for different expenses in a subsequent taxable year.

33 **"§ 105-129.52. Tax election; cap.**

34 (a) Tax Election. – The credit allowed in this Article is allowed against the

35 franchise tax levied in Article 3 of this Chapter or the income taxes levied in

36 Article 4 of this Chapter. The taxpayer must elect the tax against which a credit

37 will be claimed when filing the return on which the first installment of the credit is

38 claimed. This election is binding. Any carryforwards of a credit must be claimed

39 against the same tax.

40 (b) Cap. – A credit allowed in this Article may not exceed fifty percent

41 (50%) of the amount of tax against which it is claimed for the taxable year,

42 reduced by the sum of all other credits allowed against that tax, except tax

43 payments made by or on behalf of the taxpayer. This limitation applies to the

1 cumulative amount of credit, including carryforwards, claimed by the taxpayer
2 under this Article against each tax for the taxable year. Any unused portion of a
3 credit allowed in this Article may be carried forward for the succeeding 15 years.

4 **"§ 105-129.53. Substantiation.**

5 To claim a credit allowed by this Article, the taxpayer must provide any
6 information required by the Secretary. Every taxpayer claiming a credit under this
7 Article must maintain and make available for inspection by the Secretary any
8 records the Secretary considers necessary to determine and verify the amount of
9 the credit to which the taxpayer is entitled. The burden of proving eligibility for a
10 credit and the amount of the credit rests upon the taxpayer, and no credit may be
11 allowed to a taxpayer that fails to maintain adequate records or to make them
12 available for inspection.

13 **"§ 105-129.54. Reports.**

14 The Department of Revenue must report to the Revenue Laws Study
15 Committee and to the Fiscal Research Division of the General Assembly by May 1
16 of each year the following information for the 12-month period ending the
17 preceding December 31:

- 18 (1) The number of taxpayers that claimed each credit allowed in this
19 Article.
20 (2) The amount of each credit claimed.
21 (3) The total cost to the General Fund of the credits claimed.

22 **"§ 105-129.55. Credit for North Carolina research and development.**

23 (a) Qualified North Carolina Research Expenses. – A taxpayer that has
24 qualified North Carolina research expenses for the taxable year is allowed a credit
25 equal to a percentage of the expenses, determined as provided in this subsection. If
26 part of the taxpayer's qualified North Carolina research expenses qualifies under
27 subdivision (2) of this subsection and the remainder qualifies under subdivision
28 (3) of this subsection, the applicable percentages apply separately to each part of
29 the expenses.

- 30 (1) Small business. – If the taxpayer was a small business as of the
31 last day of the taxable year, the applicable percentage is three
32 percent (3%).
33 (2) Low-tier research. – For expenses with respect to research
34 performed in an enterprise tier one, two, or three area, the
35 applicable percentage is three percent (3%).
36 (3) Other research. – For expenses not covered under subdivision (1)
37 or (2) of this subsection, the percentages provided in the table
38 below apply to the taxpayer's qualified North Carolina research
39 expenses during the taxable year at the following levels:

<u>Expenses Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$50 million</u>	<u>1%</u>
<u>\$50 million</u>	<u>\$200 million</u>	<u>2%</u>
<u>\$200 million</u>	<u>--</u>	<u>3%</u>

1 | (b) North Carolina University Research Expenses. – A taxpayer that has
2 | North Carolina university research expenses for the taxable year is allowed a
3 | credit equal to fifteen percent (15%) of the expenses."

4 | **SECTION 3.** G.S. 105-129.10 and G.S. 105-129.51(c) are repealed.

5 | **SECTION 4.** Section 3 of this act becomes effective for taxable years
6 | beginning on or after January 1, 2006. The remainder of this act becomes effective
7 | for taxable years beginning on or after January 1, 2005.

